

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

WORCESTER, ss.

In re:) Chapter 7
WESTBOROUGH SPE LLC,) Case No. 23-40709-CJP
Debtor.)

)

MOTION FOR EXPEDITED CLARIFICATION AND TO COMPEL RELEASE OF INFORMATION FOR COMPLIANCE WITH FINCEN REQUIREMENTS

COMES NOW, Lolonyon Akouete, in the capacity of creditor and manager of Westborough SPE LLC ("the Debtor"), under Chapter 7 bankruptcy proceedings before this Honorable Court, and respectfully submits this Motion for Expedited Clarification and to Compel Release of Information for Compliance with Financial Crimes Enforcement Network (FinCEN) Requirements. This motion seeks the Court's urgent intervention to navigate substantial compliance risks associated with the FinCEN's Beneficial Ownership Information (BOI) reporting deadlines.

BACKGROUND

- Case Overview:** The Debtor, Westborough SPE LLC, is navigating Chapter 7 bankruptcy proceedings with significant assets, including real estate valued at \$2.8 million and cash holdings of \$1.2 million. The sole member of the Debtor is Mignonette Investments Limited, struck off due to non-payment of annual fees, complicating the identification of beneficial ownership necessary for FinCEN compliance.
- Compliance Deadline:** The Corporate Transparency Act mandates entities existing before January 1, 2024, to submit their BOI reports by January 1, 2025, advising against last-minute compliance efforts.
- Trustee's Position:** Jonathan R. Goldsmith, the Chapter 7 Trustee, indicates ongoing discussions for clarification on FinCEN's applicability to Chapter 7 Trustees, introducing uncertainties in compliance efforts.

MOTION FOR RELIEF

The Movant hereby requests the Court to:

- Grant Expedited Clarification:** To clarify the applicability and responsibilities under FinCEN reporting requirements for the Debtor within Chapter 7 proceedings.
- Compel Release of Information:** To order David M. Abramowitz, former legal counsel for Westborough SPE LLC, to release information pertinent to identifying the beneficial owner(s) necessary for FinCEN compliance.

JUSTIFICATION

- Urgency and Compliance Risks:** The impending FinCEN deadline underscores the need for prompt action to avoid potential penalties and ensure compliance.

- **Fiduciary Duty:** The manager and trustee bear fiduciary duties to manage the Debtor's assets in compliance with all legal obligations, including FinCEN regulations.

ADDITIONAL JUSTIFICATION REGARDING NON-PREJUDICE

The release of the requested information will not prejudice any party in the bankruptcy. It aims solely at regulatory compliance, serving the public interest and ensuring the estate's transparent administration.

CONCLUSION

This motion underscores the necessity of expedited clarification and compelling of information to meet FinCEN's BOI reporting requirements within the limited timeframe. Ensuring compliance is crucial for the proper administration of the bankruptcy estate, avoiding legal and financial repercussions, and fulfilling fiduciary duties without prejudicing any party involved in the proceedings.

WHEREFORE, Lolonyon Akouete respectfully requests that this Court grant this motion for expedited clarification and to compel the release of information, facilitating compliance with FinCEN requirements and safeguarding the interests of the bankruptcy estate and its creditors.

DATED: February 18, 2024, Respectfully submitted:

By creditor,



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CERTIFICATE OF SERVICE

I, Lolonyon Akouete, a creditor, hereby certify that the above document is served by email and mailing a copy of the same, first-class mail, to the following:

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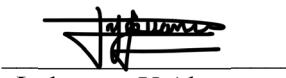
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